

921 KAR 3:020. Financial requirements.

RELATES TO: 7 C.F.R. 273.1, 273.2, 273.8, 273.9, 273.10, 273.11, 273.12, 7 U.S.C. 2014, 2017(d), 26 U.S.C. 3507, 29 U.S.C. 2801-2931, 38 U.S.C. 1833, 42 U.S.C. 601-619, 1382a(b)(4)(B)(iv), 4951-4960, 9902(2), 12501-12604, Pub.L. 110-246

STATUTORY AUTHORITY: KRS 194A.010, 194A.050(1), 7 C.F.R. 271.4

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.010 requires the Cabinet for Health and Family Services to administer income-supplement programs that protect, develop, preserve, and maintain families and children in the Commonwealth. KRS 194A.050(1) requires the secretary to promulgate administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. 7 C.F.R. 271.4 requires the cabinet to administer the Food Stamp Program within the state. This administrative regulation establishes the financial eligibility requirements used by the cabinet in the administration of the Food Stamp Program. In addition, 7 U.S.C. 2014 allows states to exclude additional types of income and resources if these specific types of income and resources are not counted in the state's Temporary Assistance for Needy Families (TANF) or Medicaid Programs.

Section 1. Financial Eligibility Requirements. (1) As established in 7 C.F.R. 273, national uniform standards of financial eligibility for the Food Stamp Program shall be composed of the following criteria:

- (a) Income limitations; and
- (b) Resource limitations.
- (2) Participation in the program shall be limited to a household that is prevented from obtaining a more nutritious diet because of its income.
- (3) The income eligibility standards shall be:
 - (a) Derived from the federal income poverty guidelines as defined in 42 U.S.C. 9902(2) for the forty-eight (48) contiguous states; and
 - (b) Adjusted annually each October 1, as published in the Federal Register.

Section 2. Countable Income. All nonexcluded income shall be considered in determining eligibility, including the following:

- (1) Wages earned by a household member, including wages received by a striker as defined in 921 KAR 3:035, Section 5(10);
- (2) The gross income of a self-employment enterprise, including the total gain from the sale of capital goods or equipment related to the business, excluding the cost of doing business;
- (3) Training allowance from vocational and rehabilitative programs recognized by federal, state, or local governments, to the extent that the allowances are not reimbursements;
- (4) Volunteers in Service to America; (VISTA) payments under 42 U.S.C. 4951 to 4960 unless specifically excluded in accordance with 7 C.F.R. 273.9(c)(10)(iii);
- (5) The earned or unearned income of an ineligible household member or nonhousehold member as described in 921 KAR 3:035, Section 5(3) and (4);
- (6) Assistance payments from federal or federally-aided public assistance including:
 - (a) Supplemental security income or "SSI";
 - (b) Kentucky Transitional Assistance Program or "K-TAP" in accordance with 921 KAR 2:016;
 - (c) General assistance programs;
 - (d) Other assistance programs based on need; or
 - (e) Kinship care in accordance with 922 KAR 1:130;
- (7) Annuities;

- (8) Pensions;
- (9) Retirement, veteran's, or disability benefits;
- (10) Worker's or unemployment compensation;
- (11) Strike pay;
- (12) Old-age survivors or Social Security benefits;
- (13) Except as excluded in Section 3(16) of this administrative regulation, foster care payments for a child or adult;
- (14) Gross income derived from rental property, minus the cost of doing business. This income shall be considered as earned income if the household member is actively engaged in the management of the property an average of twenty (20) hours or more per week;
- (15) Wages earned by a household member that are garnished or diverted by an employer and paid to a third party for a household expense;
- (16) Support or alimony payments made directly to the household from a nonhousehold member. This shall include any portion of a payment returned to the household by the cabinet;
- (17) Wages received from a TANF funded work program in accordance with 42 U.S.C. 601-619;
- (18) A payment from:
 - (a) A government sponsored program;
 - (b) A royalty; or
 - (c) Similar direct money payments from a source that may be construed as a gain or benefit;
- (19) Money withdrawn from a trust fund;
- (20) The amount of monthly income deemed to a sponsored alien as established in 921 KAR 3:035, Section 5(11);
- (21) The portion of means tested assistance monies:
 - (a) From a:
 - 1. Federal welfare program;
 - 2. State welfare program; or
 - 3. Local welfare program; and
 - (b) Withheld for the purpose of recouping an overpayment resulting from the household's intentional failure to comply with that program's requirements;
- (22) Earnings of an individual who is participating in an on-the-job training program under 29 U.S.C. 2801-2931 unless the individual is under:
 - (a) Nineteen (19) years of age; and
 - (b) The parental control of another adult member; and
- (23) An assistance payment for child care or attendant care:
 - (a) Received from an outside source; and
 - (b) Paid to one (1) household member:
 - 1. From another household member; or
 - 2. On behalf of another household member.

Section 3. Income Exclusions. The following shall not be considered as income:

- (1) Money:
 - (a) Withheld from:
 - 1. An assistance payment;
 - 2. Earned income; or
 - 3. Another income source; and
 - (b) Voluntarily or involuntarily returned to repay a prior overpayment received from the same income source, except as established in Section 2(21) of this administrative regulation;
- (2) Child support income shall be considered as follows:

- (a) A child support payment shall be excluded if:
 - 1. Received by a recipient of the K-TAP or Kinship Care Program; and
 - 2. It is transferred to the Child Support Enforcement Program in the Department for Income Support to maintain eligibility in K-TAP or Kinship Care Program; and
- (b) A portion of child support money returned to the household receiving K-TAP or Kinship Care Program benefits by the cabinet shall not be excluded;
- (3) A gain or benefit that is not in the form of money payable directly to the household;
- (4) A money payment that is not legally obligated and otherwise payable directly to a household, but is paid to a third party for a household expense;
- (5) Income:
 - (a) Received:
 - 1. In the certification period; and
 - 2. Too infrequently or irregularly to be reasonably anticipated; and
 - (b) Not in excess of thirty (30) dollars per quarter;
 - (6) Educational income including grants, loans, scholarships, and work study income except as defined Section 2(17) of this administrative regulation;
 - (7) A loan from a:
 - (a) Private individual; or
 - (b) Commercial institution;
 - (8) A reimbursement for a past or future expense, other than normal living expenses;
 - (9) Money received and used for the care and maintenance of a third-party beneficiary who is not a household member;
 - (10) The earned income of a child who is:
 - (a) A member of the household;
 - (b) An elementary or secondary school student; and
 - (c) Age seventeen (17) years or younger;
 - (11) Money received in the form of a nonrecurring lump-sum payment;
 - (12) The cost of producing self-employment income. If the cost of producing farm self-employment income exceeds the income derived from self-employment farming, the loss shall be offset against any other countable income in the household;
 - (13) Income specifically excluded by 7 U.S.C. 2014 from consideration as income for the purpose of determining Food Stamp Program eligibility;
 - (14) An energy assistance payment or allowance that is made:
 - (a) In accordance with any federal law, except 42 U.S.C. 601 to 619, including a utility reimbursement made by:
 - 1. The Department of Housing and Urban Development; and
 - 2. Rural and Economic Community and Development; or
 - (b) For the purpose of a one (1) time payment or allowance made as defined in a federal or state law for the costs of:
 - 1. Weatherization;
 - 2. Emergency repair; or
 - 3. Replacement of:
 - a. An unsafe or inoperative furnace; or
 - b. Other heating or cooling device;
 - (15) A cash donation based on need received from a nonprofit charitable organization, not to exceed \$300 in a federal fiscal year quarter;
 - (16) A foster care payment for a foster child if the household requests that the child be excluded from the household in determining eligibility;
 - (17) Money received under 26 U.S.C. 3507 of the Internal Revenue code, as an advanced

payment of earned income credit;

(18) Interest or dividend income, in accordance with 7 U.S.C. 2014;

(19) Additional wages received by a member of the military while deployed to a designated combat zone, in accordance with 7 U.S.C. 2014;

(20) Veteran's benefits provided to children with identified birth defects born to female Vietnam veterans, in accordance with 38 U.S.C. 1833;

(21) Income from AmeriCorps programs, except for Volunteers in Service to America, as specified in Section 2(4) of this administrative regulation, in accordance with 42 U.S.C. 12501-12604;

(22) Income from a Youthbuild program, unless the income is from on-the-job training, as defined in Section 2 of this administrative regulation, in accordance with 29 U.S.C. 2931; and

(23) Income associated with the fulfillment of an approved Plan for Achieving Self-Support (PASS), in accordance with 42 U.S.C. 1382a(b)(4)(B)(iv).

Section 4. Income Eligibility Standards. Participation in the Food Stamp Program shall be limited to a household whose income falls at or below the applicable standards as established by the Food and Nutrition Service in 7 C.F.R. 273 that are established in this section:

(1) A household that contains a member who is elderly or has a disability as defined in 921 KAR 3:010, Section 1(11) or (13), shall have the member's net income compared to 100 percent of the federal income poverty guidelines.

(2) A household in which a member receives or is authorized to receive cash, in-kind, or other benefits funded under TANF pursuant to 42 U.S.C. 601-619, shall be considered categorically eligible in accordance with 921 KAR 3:030, Section 6(4).

(3) A household in which all members are recipients of SSI shall be considered categorically eligible in accordance with 921 KAR 3:030, Section 6(3).

(4)(a) Other households shall have a:

1. Gross income compared to 130 percent of the federal income poverty guidelines; and

2. Net income compared to 100 percent of the federal income poverty guidelines.

(b) A household's gross income as calculated pursuant to paragraph (a) of this subsection shall be the household's total income:

1. After excluded income has been disregarded in accordance with Section 3 of this administrative regulation; and

2. Before any deductions in accordance with Section 5 of this administrative regulation have been made.

Section 5. Income Deductions. The following shall be allowable income deductions:

(1) A monthly standard deduction per household, based on household size, as established in 7 U.S.C. 2014, that shall be periodically adjusted by the Food and Nutrition Service to reflect a change in the cost of living for a prior period of time as determined by the Food and Nutrition Service pursuant to 7 C.F.R. 273;

(2) Twenty (20) percent of gross earned income that is reported within ten (10) days of the date that the change of income becomes known to the household;

(3) A payment:

(a) For the actual cost for the care of:

1. A child; or

2. Other dependent; and

(b) Necessary for a household member to:

1. Seek, accept, or continue employment;

2. Attend training; or

3. Pursue education preparatory to employment;

(4) A homeless standard allowance of a shelter expense for a household in which all members are homeless and are not receiving free shelter throughout the calendar month, unless that household verifies higher expenses;

(5) An allowable medical expense in excess of thirty-five (35) dollars per month incurred by a household member who meets the definition of being elderly or having a disability as defined in 921 KAR 3:010, Section 1(11) and (13):

(a) Including:

1. Medical and dental care;
2. Hospitalization or outpatient treatment and nursing care;
3. Medication and medical supplies;
4. A health insurance premium;
5. A hospitalization insurance premium;
6. Dentures, a hearing aid, eyeglasses, prosthetics; or
7. Similar medical expense; and

(b) Excluding special diet cost;

(6) Actual child support payment made by a household member shall be allowed as a deduction if:

(a) The household member is legally obligated to pay child support; and

(b) Verification is provided showing a payment is currently being made.

Section 6. Monthly Shelter Cost Deduction. (1) The monthly shelter cost deduction shall be that amount in excess of fifty (50) percent of the household's income after allowable deductions have been made.

(2) The shelter deduction shall not exceed the current shelter maximum, except that a household shall not be subject to the maximum if a member is:

(a) Elderly; or

(b) Disabled.

(3) The excess shelter maximum shall be adjusted periodically by the Food and Nutrition Service to reflect change in the cost of living.

(4) Allowable monthly shelter expense shall include the following:

(a) Continuing charge for the shelter occupied by the household including:

1. Rent;
2. Mortgage;
3. Payment on mobile home loan;
4. Condominium and association fees;
5. Interest on a payment; and
6. Similar charge leading to ownership of the shelter;

(b) Property tax;

(c) State and local assessment;

(d) Insurance on the structure itself;

(e) The cost of:

1. Heating and cooking fuel;
2. Cooling;
3. Electricity;
4. Water and sewage;
5. Garbage and trash collection fee;
6. Telephone standard deduction; and
7. A fee charged by a utility provider for the initial installation of the utility;

(f) The shelter cost for the home if:

1. Temporarily unoccupied by the household because of:
 - a. Employment or training away from home;
 - b. Illness; or
 - c. Abandonment caused by a natural disaster or casualty loss;
2. The current occupant is not claiming shelter cost for food stamp purposes; and
3. The home is not leased or rented during the absence of the household; and
- (g) A charge for the repair of the home if substantially damaged or destroyed by fire, flood, or other natural disaster, except to the extent the cost is reimbursed by:
 1. A private or public relief agency;
 2. Insurance; or
 3. A similar source.
- (5) The standard utility allowance shall be used to calculate shelter cost for a household:
 - (a) Receiving Low Income Home Energy Assistance Program benefits; or
 - (b) Incurring cost, separate from its rent or mortgage payment, for:
 1. Heating; or
 2. Cooling (by air conditioning unit only).
- (6) The standard utility allowance shall be adjusted periodically.
- (7) If the household is not entitled to the utility standard or homeless standard allowance, it shall be given the basic utility allowance in accordance with 7 U.S.C. 2014, if the household is billed for two (2) of the following:
 - (a) Electricity (nonheating and noncooling);
 - (b) Water or sewage;
 - (c) Garbage or trash;
 - (d) Cooking fuel; or
 - (e) Telephone service.
- (8) The basic utility allowance shall be adjusted annually.
- (9) A household whose only expense is for telephone service shall be given a telephone standard.
- (10) A household not entitled to a standard specified in subsection (7) or (9) of this section may use actual utility expense to calculate shelter deduction.

Section 7. Resources. (1) Uniform national resource standards of eligibility shall be utilized pursuant to 7 C.F.R. 273.8.

(2) Eligibility shall be denied or terminated if the total value of a household's liquid and nonliquid resources, not exempt under Section 8 of this administrative regulation exceed:

- (a) \$3,000 for a household member:
 1. With a disability as defined in 921 KAR 3:010, Section 1(11); or
 2. Sixty (60) years or older; or
- (b) \$2,000 for any other household.
- (3) A household that is categorically eligible in accordance with 921 KAR 3:030, Section 6 shall meet the food stamp resource requirement.

Section 8. Exempt Resources. The following resources shall not be considered in determining eligibility:

- (1) All real estate, in accordance with 7 U.S.C. 2014;
- (2) Household goods;
- (3) Personal effects;
- (4) A burial plot;
- (5) The cash value of life insurance policies;

- (6) In accordance with 7 U.S.C. 2014;
- (a) A tax-preferred retirement account;
- (b) A prepaid burial account;
- (c) A licensed or unlicensed vehicle;
- (d) A recreational vehicle;
- (e) A resource deemed to an alien from a sponsor or spouse of a sponsor;
- (f) Principal and accrued interest of an irrevocable trust during a period of unavailability;
- (g) A tax-preferred educational account; and
- (h) Another resource that is excluded for food stamp purposes;
- (7) A governmental payment that is designated for the restoration of a home damaged in a disaster, if the household is subject to legal sanction and, if funds are not used as intended;
- (8) A resource, of which the cash value is not accessible to the household;
- (9) A resource that has been prorated as income;
- (10) Income that is withheld by the employer to pay a certain expense directly to a third party as a vendor payment, to the extent that the remainder of the withheld income is not accessible to the household at the end of the year; and
- (11) The earned income tax credit income received by a member of the household for a period of twelve (12) months from receipt if the member was participating in the Food Stamp Program:
 - (a) At the time the credit was received; and
 - (b) Continuously during the twelve (12) month period of exclusion.

Section 9. Transfer of Resources. A household that has transferred a resource knowingly for the purpose of qualifying or attempting to qualify for food stamps shall be disqualified from participation in the program for up to one (1) year from the date of the discovery of the transfer.

Section 10. Failure to Comply with Other Programs. (1) Except as provided in subsection (2) of this section, if the benefits of a household are reduced under a federal, state, or local law relating to a means-tested public assistance program for the failure of a member of the household to perform an action required under the law or program, for the duration of the reduction, the food stamp allotment of the household shall be reduced by twenty-five (25) percent.

(2) If the benefits of a household are reduced as defined in a federal, state, or local law relating to a means-tested public assistance program for the failure of a household member to perform a work requirement, the individual shall be subject to the disqualification procedure as defined in 921 KAR 3:042, Section 7. (3 Ky.R. 677; eff. 5-4-1977; Am. 6 Ky.R. 156; eff. 10-3-1979; 7 Ky.R. 692; eff. 4-1-1981; 8 Ky.R. 80; eff. 9-2-1981; 537; eff. 2-1-1982; 9 Ky.R. 277; eff. 9-8-1982; 1063; eff. 4-6-1983; 1253; eff. 6-1-1983; 10 Ky.R. 360; eff. 10-5-1983; 846; eff. 1-4-1984; 11 Ky.R. 87; eff. 8-7-1984; 1337; eff. 4-9-1985; 12 Ky.R. 1946; eff. 7-2-1986; 13 Ky.R. 983; eff. 12-2-1986; 1494; eff. 3-6-1987; 1954; eff. 6-9-1987; 14 Ky.R. 652; eff. 11-6-1987; 15 Ky.R. 1705; eff. 3-15-1989; 16 Ky.R. 1507; 1948; eff. 3-8-1990; 2788; eff. 7-18-1990; 18 Ky.R. 202; eff. 8-21-1991; 19 Ky.R. 311; eff. 8-28-1992; 21 Ky.R. 643; eff. 9-21-1994; 22 Ky.R. 395; eff. 9-20-1995; 1901; eff. 6-6-1996; 24 Ky.R. 209; 594; eff. 8-20-1997; Recodified from 904 KAR 3:020, 10-30-1998; 26 Ky.R. 2062; 27 Ky.R. 143; eff. 7-17-2000; 28 Ky.R. 1251; 1663; eff. 1-14-2002; 29 Ky.R. 2181; 2479; eff. 4-11-2003; TAm eff. 10-27-2004; 32 Ky.R. 164; eff. 11-16-2005; TAm eff. 1-27-2006; 35 Ky.R. 1350; 1814; eff. 2-6-2009.)